

IN THE SENATE

SENATE BILL NO. 1352, As Amended

BY TRANSPORTATION COMMITTEE

AN ACT

RELATING TO DRIVING WHILE TEXTING; AMENDING SECTION 49-121, IDAHO CODE, TO DEFINE THE TERM "TEXTING" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-529, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 49-1401, IDAHO CODE, TO PROVIDE THAT TEXTING WHILE DRIVING SHALL CONSTITUTE INATTENTIVE DRIVING.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 49-121, Idaho Code, be, and the same is hereby amended to read as follows:

49-121. DEFINITIONS -- T. (1) "Temporary supplemental lot" means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations. The adjacent county restriction shall not apply if the dealer holds the franchise for the products to be displayed or sold and has approval from a manufacturer for the location where the proposed temporary supplemental lot license will be issued by the department. Nonfranchised dealers shall be permitted to temporarily display or sell their products within a one hundred seventy-five (175) mile radius of their principal place of business, upon approval by the department.

(2) "Texting" means engaging in the review of, or manual preparation and transmission of written communications via handheld wireless devices except that texting by persons driving law enforcement, fire or emergency medical vehicles shall be exempt while engaging in the course and scope of their duties. This definition does not include voice-operated or hands free devices that allow the user to review, prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function.

(3) "Tires" means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

~~(34)~~ "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

~~(45)~~ "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

~~(56)~~ "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

~~(67)~~ "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility trailer," section 49-122, Idaho Code)

~~(78)~~ "Transitional ownership document" means a document used to perfect a lien against creditors or subsequent purchasers when the primary

ownership document is not available and the selling dealer, new security interest holder or their agent, to the best of their knowledge, will not have possession of the primary ownership document, within thirty (30) days, and contains all of the following:

- (a) The date of sale or if no sale is involved, the date the contract or security agreement being perfected was signed;
- (b) The name and address of each owner of the vehicle;
- (c) The name and address of each security interest holder;
- (d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;
- (e) The vehicle identification number;
- (f) The name of the security interest holder or person who submits the transitional ownership document for the security interest holder; and
- (g) Any other information the department may require for its records.

~~(89)~~ "Transportation," for the purposes of chapter 22, title 49, Idaho Code, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

~~(910)~~ "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, title 49, Idaho Code, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

~~(101)~~ "Truck" means:

- (a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.
- (b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.
- (c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.
- (d) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and containing at least one (1) of the following facilities: stove; refrigerator or icebox; self-contained toilet; heater or air conditioner; potable water supply including a faucet and sink; separate 110-125 volt electrical power supply; or LP-gas supply. Truck campers originally constructed with an overall length of six (6) feet or longer shall be titled as provided in chapter 5 of this title 49. A truck camper does not include pickup hoods, shells or canopies.
- (e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

~~(112)~~ "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance.

1 SECTION 2. That Section 49-529, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 49-529. MANDATORY REJECTION OR INVALIDATION OF TRANSITIONAL
4 OWNERSHIP DOCUMENT BY DEPARTMENT. The transportation department shall
5 reject, return or subsequently invalidate a transitional ownership document
6 if:

7 (1) More than thirty (30) days have elapsed between the date of sale,
8 or if no sale is involved, more than thirty (30) days have elapsed between
9 the date the contract or security interest being perfected was signed and the
10 date the transitional ownership document is received by the department;

11 (2) The transitional ownership document does not contain all of the
12 information contained in section 49-121 (~~78~~), Idaho Code;

13 (3) It is determined that persons named on the transitional ownership
14 document as having a security interest did not have a security interest on
15 the date the transitional ownership document was received;

16 (4) It is determined the person who submitted the transitional
17 ownership document made false statements in completing the transitional
18 ownership document;

19 (5) The department does not receive the primary ownership document from
20 the date of sale within ninety (90) days of the date of sale or if no sale
21 is involved, within ninety (90) days from the date the security agreement or
22 contract was signed;

23 (6) The security interest holder or person submitting the transitional
24 ownership document elects to retain, requests it be returned or requests
25 that the transitional ownership document be withdrawn; or

26 (7) The information on or in the transitional ownership document has
27 been changed or altered in a manner that is not acceptable to the department.

28 SECTION 3. That Section 49-1401, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 49-1401. RECKLESS DRIVING. (1) Any person who drives or is in actual
31 physical control of any vehicle upon a highway, or upon public or private
32 property open to public use, carelessly and heedlessly or without due
33 caution and circumspection, and at a speed or in a manner as to endanger or
34 be likely to endanger any person or property, or who passes when there is a
35 line in his lane indicating a sight distance restriction, shall be guilty
36 of reckless driving and upon conviction shall be punished as provided in
37 subsection (2) of this section.

38 (2) Every person who pleads guilty to or is found guilty of reckless
39 driving for the first time is guilty of a misdemeanor and may be sentenced
40 to jail for not more than six (6) months or may be fined not more than one
41 thousand dollars (\$1,000), or may be punished by both fine and imprisonment.
42 Every person who pleads guilty to or is found guilty of reckless driving, who
43 has previously been found guilty of or has pled guilty to reckless driving,
44 or any substantially conforming foreign criminal violation within five (5)
45 years, notwithstanding the form of the judgment(s) or withheld judgment(s),
46 is guilty of a misdemeanor and may be sentenced to jail for not more than
47 one (1) year or may be fined not more than two thousand dollars (\$2,000), or
48 may be punished by both fine and imprisonment. The department shall suspend

1 the driver's license or privileges of any such person as provided in section
2 49-326, Idaho Code.

3 (3) Inattentive driving shall be considered a lesser offense than
4 reckless driving and shall be applicable in those circumstances where the
5 conduct of the operator has been inattentive, careless or imprudent, in
6 light of the circumstances then existing, rather than heedless or wanton, or
7 in those cases where the danger to persons or property by the motor vehicle
8 operator's conduct is slight. Texting, as that term is defined in section
9 49-121, Idaho Code, while driving a moving motor vehicle shall constitute
10 inattentive driving provided this does not apply to voice-operated or hands
11 free devices that allow the user to review, prepare and transmit a text
12 message without the use of either hand except to activate, deactivate or
13 initiate a feature or function. Every person convicted of inattentive
14 driving under this section shall be guilty of a misdemeanor and may be
15 sentenced to jail for not more than ninety (90) days or may be fined not
16 more than three hundred dollars (\$300), or may be punished by both fine and
17 imprisonment.